



Hosting +Domains +Anti-virus

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Dear Maarten and Goran

I am writing to you in relation to the upcoming public meeting which is to be held in The Hague.

In common with many others I had been looking forward to attending an “in person” ICANN event for the first time in over two years.

It is to be expected that ICANN would put in place health and safety protocols for attendees. That they might go further than what is required by the host country isn't surprising.

However, I was quite shocked by the waiver that ICANN is forcing all participants to agree to in order to attend.

While I can fully appreciate that an event organiser needs to protect themselves from frivolous claims, the waiver that you expect me, my staff and other attendees to agree is excessive.

I took the liberty of seeking legal counsel with respect to the waiver, as I wanted to be sure that I wasn't being paranoid. Our legal counsel, Mr William Clarke, has advised me that I cannot sign this waiver and I obviously cannot ask any of my staff to do so either. Their analysis of the waiver is attached. They agree that you would want to reduce your liability, but you cannot expect people to grant you a blanket exclusion of liability which includes actual fault.

As an ICANN accredited registrar both myself and my staff attend ICANN meetings as they are an important part of the policy making process which has a direct and tangible impact on our business. Being unable to attend an event due to this unreasonable requirement is incredibly frustrating.

I would hope that you appreciate where I'm coming from, and you reconsider the need for this unnecessary and over-reaching waiver for attendance to the upcoming meeting, and future meetings.



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Sincerely,

Mr Michele Neylon
Managing Director

2nd April 2022

Re: ICANN Waiver

Michele,

Many thanks for sending on the ICANN waiver for review. Please note that I must advise you not to sign same. The agreement in its current format is in our opinion unacceptable and unduly severe. Please note the following specific items, which unfortunately are not exhaustive, however are of the most concern:

1. First Clause: ICANN is excluded from any costs or liabilities for any issues surrounding covid. This is too wide.
2. Covid Exposure Clause: While there is no issue in you assuming the risk of Covid- as we all must in the current environment- you should not be accepting such a risk due to the actual negligence or fault of ICANN. This is automatically putting you in concerning position. I would assume that ICANN will provide a safe place and environment for their meeting, and as such this condition as currently drafted is excessive and unacceptable.
3. Applicable Laws clause: This is drafted far too widely and leaves you open to expulsion from an event for any subjective reason.
4. Release & Indemnification: Again, far too excessive. Further you are liable for any costs of enforcement of the Agreement- whether or not same is an issue disputed by you.

I understand that ICANN are seeking to reduce liability for Covid exposure, which in itself is acceptable, however, you should not be accepting a blanket exclusion of liability to include actual fault.

Yours sincerely,

William Clarke
Partner

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